

United States District Court
FOR THE NORTHERN ILLINOIS
DISTRICT OF

JULIAN McCLENDON

SUMMONS IN A CIVIL ACTION

Plaintiff
V.

CASE NUMBER: 97 C 4577

**E. BOONE, Star No. 9239 and
D. BAEZ, Star No. 17028
Officers of the City of Chicago
Department of Police,
in their Individual Capacities**

TO: (Name and Address of Defendant)

**D. BAEZ, Star No. 17028
City of Chicago Department of Police
1121 South State, Room 400
Chicago, IL 60605**

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

**Matthew J. Piers, Esq.
GESSLER, HUGHES & SOCOL, LTD.
Attorneys for Plaintiff
Three First National Plaza-Suite 2200
Chicago, Illinois 60602-4205
Telephone: (312) 580-0100**

an answer to the complaint which is herewith served upon you, within thirty (30) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

MICHAEL W. DOBBINS

CLERK

CAROLE GAINER

BY DEPUTY CLERK

DATE

JUN 27 1997

CHICAGO POLICE
30 JUN 97 11 05
OFFICE OF THE
SUPERINTENDENT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RECEIVED

JUN 27 1997

MICHAEL W. DOBBINS
CLERK, U. S. DISTRICT COURT

JULIAN McCLENDON,

Plaintiff

vs.

NO: 97 C 4577

E. BOONE, Star No. 9239, and

D. BAEZ, Star No. 17028,

Officers of the City of Chicago

Department of Police,

in their Individual Capacities

Defendants

Judge James H. Alesia

Magistrate Judge Martin C. Ashman

AMENDED COMPLAINT

Now comes the plaintiff, Julian McClendon ("McClendon"), by his attorneys, Matthew J. Piers, Terrence J. Moran and Dana H. Sukenik of Gessler, Hughes & Socol, Ltd., and complains as follows against the defendants E. Boone, Star No. 9239 and D. Baez, Star No. 17028:

INTRODUCTION

- 1 This action involves a claim against police officers of the City of Chicago Department of Police for excessive force and false arrest. This action is brought pursuant to the 4th and 14th Amendments of the United States Constitution, and 42 USC §§1983 and 1988.

JURISDICTION AND VENUE

- 2 Jurisdiction is premised upon 28 USC §§1331 and 1343. Venue is proper because all of the parties reside in this district, and all of the conduct complained of occurred in this district.

PARTIES

- 3 Plaintiff McClendon, at all times relevant to this cause of action, has been a resident of the City of Chicago, County of Cook, State of Illinois. For 26 years, Mr. McClendon has been employed by the City of Chicago as a building inspector. Mr. McClendon has been the owner of the six unit apartment building located at 347-349 East 45th Street, Chicago, Illinois, for about 14 years, and has resided there

for about the last nine years.

- 4 Defendants E. Boone, Star No. 9239, and D. Baez, Star No. 17028, at all times relevant to this cause of action, were police officers employed by the City of Chicago and acting at all times under color of law and in their capacities as City of Chicago police officers. Defendants are sued in their individual capacities.

STATEMENT OF FACTS

- 5 On July 2, 1995, approximately between the hours of 10 pm and 11 pm, McClendon was at his residence, with his 13 year old daughter, Jillian McClendon. The doorbell rang, McClendon's daughter answered it over the intercom system and inquired who was there. The defendants responded: "Police, open up." McClendon's daughter asked what they wanted, and received merely the same response: "Police, open up."
- 6 McClendon then came to the intercom and twice asked what the defendant police officers wanted, and each time the defendant police officers only swore at him and demanded entry.
- 7 McClendon then went out of the apartment and into the hallway and let the police through the two front entry doors. The defendants pushed McClendon back into the hallway, ran past him into the building and into the open door of the first floor apartment across from McClendon's apartment. On information and belief, they ran through that apartment and out of the back door.
- 8 McClendon then returned to his apartment and went to the back door of his apartment, and saw the defendant police officers in the back yard of the building. The defendant police officers told McClendon to unlock the gate in the back yard of the building. McClendon then had the building janitor come to the back yard and open the gate, as requested by the defendant officers.
- 9 The defendant officers then began swearing and proceeded to arrest an unknown individual. The defendant officers continued to swear after the arrest had been made. McClendon asked the police officers not to use profanity, and the defendant officers told McClendon that he would be arrested if he said anything else. McClendon then asked the defendant officers, "for what?" The defendant officers responded by stating that they were going to arrest McClendon. Defendants appeared at the back door of McClendon's apartment and began kicking and pushing it with great force, kicking in the lower panel in the storm door. McClendon then placed a call to the Chicago Police Department, in order to complain about the behavior of their officers.
- 10 When McClendon then opened the rear door of his apartment, defendants entered the apartment, and without a warrant or probable cause to believe that McClendon had committed any crime or violation, placed McClendon under arrest, handcuffed

his wrists tightly behind his back and dragged him down the steps, through the yard and into the alley behind the building, where they then placed him in a squad car. The squad car was then driven to the front of the building with McClendon handcuffed and under arrest in the back seat of the squad car in plain view of his neighbors and tenants of his building.

- 11 Mr. McClendon's daughter, Jillian, observed the entire encounter between her father and the defendant officers, leading up to and including McClendon's arrest. Jillian McClendon was very upset and distraught over the defendants' use of excessive force and arrest of her father for no reason. She called the City of Chicago Police Department several times during the night of July 2nd to complain about the defendant officers' conduct and to inquire as to the whereabouts and well-being of her father.
- 12 McClendon was then transported to the Chicago Police Department station at 51st Street and Wentworth Avenue, where he was placed in the lockup and kept in custody for over four hours. At the police station, when McClendon requested to see the Watch Commander or supervisor, McClendon was told to "shut up or you'll get what's coming to you" and that he was not going to be allowed to see anyone.
- 13 Defendants falsely, and without probable cause, charged McClendon with the municipal ordinance violation of disorderly conduct (Sec. 8-4-010 of the Municipal Code of the City of Chicago).
- 14 McClendon eventually was released on his own recognizance at approximately 3:30 am on July 3, 1995, and was required to walk nearly two miles back to his home at that late hour.
- 15 McClendon was required to appear in court to defend himself against the false charge. On August 28, 1995, the charge was dismissed on a motion by the prosecutor.
- 16 As a direct and proximate result of the defendants' misconduct, McClendon incurred expenses and suffered emotional, psychological and physical injuries, and humiliation.
- 17 The acts, conduct and behavior of the defendants, and each of them, were performed knowingly, intentionally, maliciously and with reckless disregard for McClendon's rights, by reason of which McClendon is entitled to an award of punitive damages.

COUNT I

Excessive Force

- 18 McClendon realleges and incorporates Paragraph 1 through 17 as Paragraph 18 of

this Count I.

- 19 The above described force used by the Defendants against McClendon was excessive and constituted an unreasonable seizure under the 4th and 14th Amendments to the United States Constitution.

COUNT II

False Arrest and Wrongful Detention

- 20 McClendon realleges and incorporates Paragraph 1 through 17 as Paragraph 20 of this Count II.
- 21 The above described arrest and detention of McClendon by defendants was without probable cause and constituted an unreasonable seizure under the 4th and 14th Amendments to the United States Constitution.

WHEREFORE, plaintiff McClendon prays that judgment be entered in his favor and against defendants E. Boone, Star No. 9239, and D. Baez, Star No. 17028, and each of them, jointly and severally, in a reasonable amount to compensate plaintiff for his injuries, plus punitive damages against the defendants in an amount to be determined at trial, plus interest on the compensatory damages from the date of the injuries at a rate set by law, as well as his costs and reasonable attorneys fees pursuant to 42 USC §1988, and for any other relief that this honorable court deems appropriate.

Plaintiff demands trial by jury.



One of the Attorneys for Plaintiff

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